



## Newsletter

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### Audit Division Earns National Award

A national group recently recognized the work of the Legislative Audit Division, awarding a Certificate of Impact for one of the division's performance audits.

The National Legislative Program Evaluation Society awarded the certificate for the "Department of Military Affairs Contract Management" audit. The audit found that the Department of Military Affairs spends millions of dollars each year for contracted goods and services, but the overall contract management was not assuring compliance with procurement law and accountability for contracting activities. The audit made eight recommendations, all of which the Department agreed to implement.

NLPES Certificates of Impact are awarded to legislative audit offices for recently released reports that have at least two of the following documented policy impacts: impacts from the Legislature's perspective, impacts from the public's perspective, impacts from the perspectives of other organizations, program improvements as a result of implementing audit recommendations, and dollar savings from implementing audit recommendations.

The complete audit is on the Legislative Audit Division website under [11P-06](#).

### Council Seeks Applicants for Uniform Law Commission

The Legislative Council is seeking applicants interested in serving on the National Conference of Commissioners on Uniform State Laws, also known as the Uniform Law Commission. A position on the panel is open following the resignation of Montana Supreme Court Justice Michael Wheat from the commission.

Uniform Law Commission members research, draft, and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical. Members serve four-year terms and receive reimbursement for expenses incurred when attending the commission's annual meetings.

The Legislative Council is responsible for selecting a new member and will make the appointment at its Aug. 22 meeting.

Applicants must be a member of the State Bar of Montana. Individuals interested in applying to serve on the panel should send a letter of interest and a resume by Aug. 15 to:

Legislative Council  
c/o Susan B. Fox  
P.O. Box 201706  
Helena, MT 59620-1706

For more information, contact Susan Fox at (406) 444-3066 or [sfox@mt.gov](mailto:sfox@mt.gov).

## Energy Committee to Focus on Renewable Portfolio Standard

An examination of Montana's requirement that certain utilities and electricity suppliers procure a percentage of their resources from renewable resources will top the Energy and Telecommunications Interim Committee agenda for the 2013-2014 interim.

The committee met June 21 to organize itself for the interim. Members elected Sen. Cliff Larsen, D-Missoula, as presiding officer and Rep. Keith Regier, R-Kalispell, as vice presiding officer.

### RPS Study

The Legislative Council assigned Senate Joint Resolution 6, a study of the Montana Renewable Power Production and Rural Economic Development Act, to the committee. The act is better known as Montana's Renewable Portfolio Standard, or RPS. Committee members agreed to a work plan devoting much of their time this interim to an analysis of the economic impacts of the RPS, the environmental benefits of the standard, and the impacts the RPS has had on Montana consumers.

In 2005, then-Gov. Brian Schweitzer proposed and the Legislature approved Senate Bill 415, creating the RPS. The proposal was aimed at ensuring that renewable resources would supply an increased share of Montana's electricity and encouraging renewable energy development and use in Montana. Enactment of the legislation reflected a policy shift from requiring utilities or other suppliers to simply obtain sufficient electricity to meet customer loads at the best price to instead advocating that certain types of electrical generation be developed or purchased by utilities and suppliers serving Montana customers. As oil and natural gas prices increased at the time, there was a growing interest in renewable energy and the supply security, environmental benefits, and economic development goals that accompanied it.

To kick off the RPS study, the committee in September will travel to central Montana to visit a number of wind farms and, potentially, the site of a proposed hydroelectric pumped storage project. The committee intends to meet with utilities and suppliers subject to the standard, as well as developers who have brought the resources online that are being used to meet the standard.

### Other Topics of Interest

During the June meeting, members also determined additional policy matters they felt were most deserving of a committee review. The committee agreed to spend time this interim evaluating energy conservation and efficiency measures in the construction, renovation, operations, and maintenance of schools. The review will include an analysis of how Montana is promoting so-called "green schools." The committee also will track interoperability issues in Montana and 9-1-1 matters, including the use of stranded funds and proper handling of fees collected for prepaid wireless devices.

The committee asked staff to track two significant matters currently before the Public Service Commission. The PSC has launched an investigation of universal system benefits (USB) programs and funding. Utilities in Montana are required to establish USB programs. Costs for those programs, which include low-income customer weatherization, renewable projects, and a number of other programs, are recovered through PSC-approved USB charges on customers' monthly utility bills. The ETIC is statutorily required to collect and review USB reports each interim. The committee intends to follow the PSC's efforts.

The PSC is also undertaking new rules for qualifying small power production facilities. The commission is now accepting public comment on a proposal to reduce the amount of power a renewable energy project can produce while receiving a standard-rate contract from a regulated utility. The PSC is required to set rates for purchases from qualifying facilities that are equal to the avoided cost of the utility. The commission is examining rules that would decrease the limit on design capacity to the federal minimum for qualifying facilities. Owners of the facilities have raised concerns that by using the minimum, renewable projects will be unable to break even or be built in Montana.

### Next Meeting

The committee meets next on Sept. 12-13. The meeting will likely be in Harlowton and Judith Gap. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Sonja Nowakowski, committee staff.

Committee Website: [www.leg.mt.gov/etic](http://www.leg.mt.gov/etic)

Committee Staff: [snwakowski@mt.gov](mailto:snwakowski@mt.gov) or 406-444-3078

## EQC Plans to Study Array of Topics

Studies on public land management, Montana's hunting and fishing license system, and the administration of state-owned properties in Virginia City, Nevada City, and Reeder's Alley in Helena will top the Legislative Environmental Quality Council's agenda this interim.

At its June meeting, the EQC dedicated a good chunk of its research time to those issues, as well its regular agency oversight and statutory duties. The council also set aside a smaller portion of time to review septic system laws and regulations and to keep tabs on the solvency of the Petroleum Tank Release Compensation Fund and the Department of Environmental Quality's efforts to close petroleum tank release sites.

### Study of Public Land Management

To kick off the study of public land management, the EQC formed a subcommittee to develop questions for a survey of county commissioners whose counties have a significant amount of federal land ownership. Subcommittee members are: Sen. John Brenden, R-Scobey; Rep. Bill McChesney, D-Miles City; Sen. Jennifer Fielder, R-Thompson Falls; Sen. Brad Hamlett, D-Cascade; Rep. Ed Lieser, D-Whitefish; and Rep. Kerry White, R-Bozeman.

The study was requested by Senate Joint Resolution 15 and approved by the 2013 Legislature.

### Study of Virginia City, Nevada City, Reeder's Alley

EQC remains committed to monitoring the Montana Heritage Preservation and Development Commission's administration of state-owned properties at Virginia City, Nevada City, and Reeder's Alley. SJR 4 continues a portion of the 2011-2012 EQC study that focused on state parks and outdoor recreation and heritage resource programs.

EQC plans to closely examine property and artifact inventories at these sites, as well as review any changes in the sites' financial condition and maintenance needs. Members will dedicate time early in the process to visiting Reeder's Alley, learning about how and why the state assumed ownership, and exploring opportunities to increase tourist traffic and business location there.

### Hunting and Fishing License Study

At the request of Gov. Steve Bullock, the Department of Fish, Wildlife, and Parks is studying the hunting and fishing license system with a soon-to-be-formed citizens' advisory council. House Bill 609, approved by the 2013 Legislature, directs the EQC to examine the topic, as well. The council opted to incorporate the department's work into its study.

As a start to the study, an EQC staffer and likely an EQC member or members will work with the advisory council. They will report back to and seek input from the EQC.

### Leaders Elected

The council elected Sen. John Brenden and Rep. Bill McChesney as the presiding officer and vice presiding officer, respectively, of the EQC for the interim. They will serve in the same capacities for the SJR 15 subcommittee.

Other members of the EQC are: Rep. Jerry Bennett, R-Libby; Rep. Virginia Court, D-Billings; Rep. Ed Lieser, D-Whitefish; Rep. Jeff Welborn, R-Dillon; Rep. Kerry White, R-Bozeman; Sen. Jennifer Fielder, R-Thompson Falls; Sen. Brad Hamlett, D-Cascade; Sen. Jim Keane, D-Butte; Sen. Rick Ripley, R-Wolf Creek; and Sen. Gene Vuckovich, D-Anaconda. The EQC has four public members, as well: Scott Aspenlieder, Helena; Dexter Busby, Great Falls; Mary Fitzpatrick, Billings; and Roy Morris, Butte. Tim Baker, a representative of the governor, serves on the EQC as a non-voting member.

### Next Meeting

The EQC meets next on Sept. 11-12 in Helena in Room 172 of the Capitol at a time to be determined. A full agenda and meeting materials will be posted on the EQC's website at least 10 days in advance of the meeting. For more information on the EQC's activities and upcoming meeting, visit the council's website or contact Joe Kolman, council staff.

Committee Website: [www.leg.mt.gov/eqc](http://www.leg.mt.gov/eqc)

Committee Staff: [jkolman@mt.gov](mailto:jkolman@mt.gov) or 406-444-3747

## Audit Committee Reviews 10 Audits

The Legislative Audit Committee met June 13 to review 10 recent financial, financial-compliance, information systems, and performance audits of state agencies and programs. Audit findings are described below.

- A contracted financial-compliance audit identified four material weaknesses in internal control over financial reporting of the Montana Chiropractic Legal Panel (12C-10). Specifically identified were the failure to properly segregate authority, custody, and record keeping in the cash disbursements and cash receipts processes, the failure to obtain proper review and approval for management fees paid to the director, and the failure to properly reconcile the bank statement.
- A financial-compliance audit of the Public Employees' Retirement Board (12-08A) contained two recommendations, one of which related to the actuarial soundness of four defined benefit plans. The Public Employees' Retirement System Defined Benefit Retirement Plan,

Sheriffs' Retirement System, Game Wardens' and Peace Officers' Retirement System, and Highway Patrol Officers' Retirement System are not actuarially sound. The Montana Constitution requires public retirement systems to be funded on an actuarially sound basis. The second recommendation related to incomplete reconciliations in the section 457 deferred compensation plan that resulted in an \$18 million misstatement on the state accounting records at fiscal year-end 2012.

- A financial-compliance audit of the Teachers' Retirement System (12-09A) found that the July 1, 2012, actuarial valuation indicated the system is not actuarially sound. In eight of the last nine valuations, the system's unfunded liability has not amortized within the 30-year requirement. An unqualified opinion on the system's financial statements was issued. The audit also made one recommendation related to the actuarial soundness of the system.
- A financial audit of the State of Montana (11-01B) was presented. The financial statements contained in the report provide legislators and taxpayers with a summary of the state's financial position. All operations and activities of the state are summarized in these statements. For the fiscal year ending June 30, 2012, Montana had approximately \$451.7 million of unassigned fund balance in the general fund, representing an increase of \$109.8 million from June 30, 2011.
- A performance audit of the Detection and Resolution of Suspected Medicaid Recipient Prescription Fraud and Abuse (12P-12) provided eight recommendations to the Department of Public Health and Human Services to comply with federal regulations and develop a process for detecting, identifying, and resolving cases of suspected prescription fraud and abuse in the Medicaid program.
- A performance audit of School Transportation Funding and Safety (13P-01) indicated that the state's ability to verify reimbursement claims has been limited and that improved controls could increase safety of bus operations.
- A financial audit of the Montana State Lottery (12-30) determined that the agency's financial statements are fairly presented for fiscal year 2012, with comparative financial amounts for fiscal year 2011, in conformity with generally accepted accounting principles and state accounting policy. No recommendations were made to the Montana State Lottery in this audit.
- A Montana Lottery Security (13DP-01) Information Systems Audit found that overall security controls are in place at the lottery in the areas outlined by statute. However, the audit identified areas where controls can be

strengthened and where adherence to existing controls can be improved. These include: enhancing and adhering to the Montana Lottery's Employment of Relatives Policy, increasing familiarity with and efficient utilization of existing security systems, and collecting and analyzing data related to prize claims by licensed sales agents and their employees.

- A financial audit of the Montana Water Pollution Control and Drinking Water State Revolving Fund Programs (11-25B) contained no recommendations and contained an unqualified opinion, indicating users can rely on the information in financial statements and notes.
- An unqualified opinion was issued in a contracted financial-compliance audit of the Flathead Valley Community College (12C-07).

The Legislative Audit Division provides independent and objective evaluations of the stewardship, performance, and cost of government policies, programs, and operations. The division is responsible for conducting financial, financial-compliance, performance, and information system audits of state agencies and programs, including the Montana university system. For more information, call the division at 406-444-3122. To search for a specific audit, use the identifier listed above in parentheses.

To report improper acts committed by state agencies, departments, or employees, call the division fraud hotline at 800-222-4446, e-mail the division at [LADHotline@mt.gov](mailto:LADHotline@mt.gov), or use the online fraud reporting form by clicking the Audit tab on the Legislature's main website, [www.leg.mt.gov](http://www.leg.mt.gov).

### Next Meeting

The Audit Committee will schedule its next meeting in the fall. For more information about the committee and its activities, visit the Legislative Audit Division website or contact Legislative Auditor Tori Hunthausen.

Division Website: [www.leg.mt.gov/audit](http://www.leg.mt.gov/audit)

Division Contact: 406-444-3122

### Finance Committee Reviews Budget Status, Rules, IT Matters

The Legislative Finance Committee began its interim work in June with presentations on topics ranging from the status of the state budget to pension rules and information technology systems.

Members also elected Sen. Llew Jones, R-Conrad, as presiding officer and Rep. Galen Hollenbaugh, D-Helena, as vice presiding officer.



Legislative Fiscal Analyst Amy Carlson provided the committee with a preview of the elements that will be covered in the 2013 Legislative Fiscal Report for the 2015 Biennium, slated to be published this summer. Carlson presented summaries of the impact of various budget decisions made during the 2013 legislative session, as well as the effects of the governor's line item vetoes in House Bill 2 and his vetoes of other appropriations bills. The fiscal report is available electronically at: <http://leg.mt.gov/FR-fbp.asp>.

Melanie Symons of the Montana Public Employee Retirement Administration provided the panel with information on the emergency rules that the Public Employees' Retirement Board adopted in preparation for the upcoming implementation of House Bill 454. The 2013 Legislature adopted HB 454 to address the funding shortfall in the Public Employees' Retirement System. The bill provided additional funding to the defined benefit plan and also increased contributions into the retirement system to pay off the unfunded liabilities. HB 454 revises the Guaranteed Annual Benefit Adjustment (GABA) for active and retired members to a maximum of 1.5%, with reductions below 1.5% in certain circumstances.

Committee members expressed reservations with the Board's interpretation of the legislative intent of the provisions in HB 454. The committee subsequently prepared and approved a letter to the retirement board, expressing its concerns.

Also at the meeting, Barbara Smith of the Legislative Fiscal Division explained the development process of the Internet Budget and Reporting System (IBARS) upgrade. Joe Kolman of the Legislative Services Division provided a demonstration of the legislative district map tools found [online](#).

Kris Wilkinson, a senior analyst with the Legislative Fiscal Division, provided a memo explaining the committee's role in monitoring the information technology policies of the Department of Administration. As part of the monitoring process, Deputy Chief Information Officer Tammy LaVigne reported to the committee on the use of the state data centers, various statewide technology projects, and the status of the Medicaid Management Information System. LaVigne provided numerous detailed reports, which are available online at: <http://leg.mt.gov/css/Committees/Administration/Finance/2014-15/Reports.asp>.

The committee spent most of the second day of its two-day meeting at a brainstorming session at the Gateway Center in Helena.

### Meeting Schedule

The committee set additional meeting dates of Sept. 26-27 and Dec. 9-10 for this year. In 2014, the committee will meet March 13-14 and June 5-6. For more information on the

committee's activities and next meeting, visit the committee's website or contact Legislative Fiscal Analyst Amy Carlson.

Committee Website: [www.leg.mt.gov/fiscal](http://www.leg.mt.gov/fiscal)

Committee Staff: [acarlson@mt.gov](mailto:acarlson@mt.gov) or 406-444-2988

## First SAVA Meeting Set for July

The State Administration and Veterans' Affairs Interim Committee has scheduled its first meeting for July 11. The committee is slated to elect officers, review its statutory and assigned duties, establish study priorities, and adopt a meeting schedule. Members will also receive overviews on each of the agencies under the committee's jurisdiction:

- the Department of Administration;
- the Public Employees' Retirement Board;
- the Teachers' Retirement Board;
- the Department of Military Affairs;
- the Board of Veterans' Affairs;
- the Office of the Secretary of State; and
- the Office of the Commissioner of Political Practices.

Public comment on any matter under the committee's jurisdiction is welcome at the time scheduled on the agenda.

The meeting will begin at 9 a.m. in Room 137 of the Capitol. For more information, visit the committee's website or contact Sheri Scurr, the committee's staff.

Committee Website: [www.leg.mt.gov/sava](http://www.leg.mt.gov/sava)

Committee Staff: [sscurr@mt.gov](mailto:sscurr@mt.gov) or 444-3596

## WPIC to Focus on CSKT Compact, Water Plan Update, Other Issues

The Water Policy Interim Committee voted June 18 to further study issues surrounding the failed reserved water rights compact with the Confederated Salish and Kootenai Tribes.

The committee will begin its work on the topic in September, when it receives a report from the Reserved Water Rights Compact Commission. The commission, a nine-member body with members appointed by the attorney general, the governor, and legislative leadership, negotiated a compact with the tribal government in February 2013. However, the 2013 Legislature did not approve the compact.

The compact commission recently solicited questions and concerns about the proposed compact and promised to deliver responses to those questions at the committee's Sept. 9-10 meeting.

In future meetings, WPIC may conduct background briefings, host panel discussions, and hold public meetings outside Helena on the subject. Legislative Services Division staff may also provide topic-specific legal analysis.

### Additional Areas of Interest

The committee also decided to focus a large portion of its time on water policy oversight. The committee has interest in pending administrative rules on three topics: temporary leasing of water rights, a definition of combined appropriation, and the creation of stream depletion zones.

The Department of Natural Resources and Conservation will provide regular briefings to the committee on the agency's efforts in updating the state Water Plan. Revisions to the Water Plan are required every 20 years. DNRC must update the plan to:

- inventory the uses associated with existing water rights;
- analyze the effects of drought and depletions of water availability; and
- estimate the amount of surface and groundwater needed to satisfy existing and future demands.

As part of its Water Plan work, the DNRC will convene Basin Advisory Councils in each of the state's three major river basins – the Clark Fork, Missouri, and Yellowstone. These advisory councils will hold hearings and deliver a recommendation to WPIC and the Environmental Quality Council next summer. DNRC also is required to present the updated Water Plan to the 2015 Legislature.

Also this interim, the committee will conduct the House Joint Resolution 26 study of the ditch/canal easement relocation process. It plans to begin work on the study in September.

Other committee priorities for the interim include water transactions policy, the future of agricultural water use, and the Water Court's role in water right permit and change decisions. Future agenda items will include a discussion of intermittent streams, models for determining water volume, and a recent Water Court decision involving the Pondera County and Reservoir Company.

### Leaders Elected

The committee elected Sen. Chas Vincent, R-Libby, as presiding officer and Rep. Kathleen Williams, D-Bozeman, as vice presiding officer.

### Meeting Schedule

The committee will meet six more times this interim. Its next meeting is Sept. 9-10. In 2014, the committee will meet Jan. 6-7, March 17-18, May 12-13, July 7-8, and Sept. 8-9. For more information on the committee's activities and next

meeting, visit the committee's website or contact Jason Mohr, committee staff.

Committee Website: [www.leg.mt.gov/water](http://www.leg.mt.gov/water)

Committee Staff: [jasonmohr@mt.gov](mailto:jasonmohr@mt.gov) or 406-444-1640

## Interim Appointments Revised

The Senate Committee on Committees met on June 19 to revise appointments to interim committees. The committee appointed:

- Sen. Debby Barrett, R-Dillon, to substitute for Sen. Jason Priest, R-Red Lodge, on the Legislative Council;
- Sen. Jim Peterson, R-Bozeman, to replace Sen. Taylor Brown, R-Huntley, who resigned from the State-Tribal Relations Committee;
- Sen. Greg Jergeson, D-Chinook, to replace Sen. Sue Malek, D-Missoula, on the Revenue and Transportation Interim Committee. Sen. Malek resigned from the committee upon appointment to the Legislative Audit Committee on June 13.
- Sen. Brad Hamlett, D-Cascade, to replace Sen. Mike Phillips, D-Bozeman, on the Capitol Complex Advisory Committee. Phillips had been previously appointed to the Future Fisheries Review Panel, an advisory group created in state law to review and approve projects designed to improve and restore fish habitats.

Earlier in June, House leadership made a change to the Revenue and Transportation Interim Committee membership, appointing Rep. Carlie Bolland, D-Great Falls, to replace Rep. Kelly McCarthy, D-Billings.

**LEGISLATURE AT A GLANCE**

A Legislative Services Division Historical Perspective

June 2013

The table below documents, by the numbers, activities undertaken by Montana legislators and the Legislative Services Division staff in carrying out the work of recent legislative sessions.

<b>Activity</b>	<b>2005</b>	<b>2007</b>	<b>2009</b>	<b>2011</b>	<b>2013</b>
Number of Bill Draft Requests	2,378	2,581	2,369	2,246	2,218
Number of Bills/Resolutions Introduced	1,411	1,525	1,314	1,179	1,201
Number of Bills Amended At Least Once	652	626	495	487	585
Number of Times Bills Were Processed to Incorporate Amendments	1,191	1,116	933	901	835
Number of Bills Enrolled (Prepared in form as finally passed by Legislature)	704	611	601	585	423
Standing and Select Committees Staffed	31	30	32	32	35
Number of Governor's Vetoes/Polled	8	20	13	78/15	71/24
Conference/Free Conference Committees Staffed	42	48	41	41	32
House and Senate Legislator/Aide/Staff Computers, Printers, Kiosks Supported	173	140	168	200	153
Legislator-Owned Electronic Devices Supported	--	--	--	125	207
Telephone Messages Received by Legislative Information Office  (In 2013, 38 legislators received their messages electronically, up from 24 in 2011.)	15,062	12,284 many sent to 12 members	21,221 resulting in 125,000 printed messages	22,291 resulting in 255,000 printed messages	23,172 resulting in 75,000 printed messages
Web Messages Received by Legislative Information Office	72,595	45,238	73,895	68,769 (135,000 printed messages)	127,494 (335,000 printed messages)
Pay and Per Diem Checks Issued to Legislators and House and Senate Staff	4,522	4,411	4,452	4,795	4,947
Pages (Impressions) of Bills Printed	7,713,000	6,588,269	4,925,584	4,246,016	4,016,736
Years of Compensatory Time Accumulated by LSD Staff from October to Session's End (2,080 hours=1 work year)	3.16	3.58	3.45	3.31	2.67

## The Back Page

### The Evolution of Equalization: School Finance Over the Years

by Pad McCracken

Legislative Research Analyst, Legislative Services Division

**Author's Note:** *As a new research analyst who was assigned to draft numerous bills related to school funding for the 2013 legislative session, I faced the challenge of trying to comprehend Montana's K-12 finance system. This article is an attempt to convey some of what I learned about a difficult but important topic, in part by studying a textbook referenced in numerous school-funding articles.<sup>1</sup>*

*Reading about the development of school funding structures and about the court cases brought in Montana and other states over equity and adequacy of school funding, I came to view the whole process as an evolution of equalization. Public schools began as local efforts, driven by parents, churches, and community member, but the role of state governments expanded as leaders reached consensus on the value of an educated citizenry<sup>2</sup> and recognized the differences that exist in local wealth.*

Historically, localities have funded schools primarily through property taxes, making a community's ability to raise funds for its schools largely dependent on local property wealth. A frequently used measure of a school district's ability to raise revenue through property tax is the total of the district's taxable value divided by the number of students the district serves.

The small sampling of similarly sized Montana K-12 school districts in the table below displays some of the differences that exist in taxable value per pupil.<sup>3</sup>

School District	ANB*	District Taxable Value	Taxable Value/ANB
Superior	310	\$4,366,576	\$14,086
Darby	367	\$10,092,861	\$27,500
Ennis	348	\$65,200,974	\$187,359

\* ANB = Average Number Belonging, or the measure of a school district's enrollment

If each of the districts listed above needed to raise \$1 million through property tax mill levies, the district would first calculate its district mill value by dividing the total taxable value in its district by 1,000. Then, it would divide the needed \$1 million by its district mill value to determine the number of mills it would levy.

The table below shows these calculations (rounded) and the impact on the property taxes on a home with a market value of \$100,000 (yielding a taxable value of \$1,384). The mills and the taxes provided in the table are not the actual number of mills levied or taxes assessed in the school districts but simply illustrate the amounts that would be needed in order to raise \$1 million for each district.

School District	Mill Value	# of Mills/ \$1 Million	Tax on \$100,000 Home
Superior	\$4,367	229	\$317
Darby	\$10,093	99	\$137
Ennis	\$65,201	15	\$21

Nationwide, several mechanisms have developed over the last century as policymakers attempted to equalize differences such as these in local property wealth. Brief explanations of these mechanisms and how they're reflected in Montana's current school funding formula follow.

#### Flat Grants

Flat grant programs provide school districts with the same set dollar amount per student, teacher, school, or other unit of measurement. States took this early approach to provide some level of funding to localities that would otherwise struggle to support education. Flat grants require no local matching funds and flow evenly to all districts regardless of local fiscal capacity. When flat grant amounts make up a small percentage of total school funding, they do little to improve equity between districts of different fiscal capacities. When flat grant amounts make up higher percentages of total

<sup>1</sup> Allan Odenn and Lawrence Picus, *School Finance: A Policy Perspective* (McGraw-Hill, 3rd Edition, 2004). This article draws heavily from this book. (Legislative Librarian Sonia Gavin will be purchasing the updated 5th Edition out later this year.)

<sup>2</sup> As evidenced by the numerous state constitution education rationale clauses such as, "A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people..." (California Constitution, Article IX, Section 1); "The stability of a republican form of government depending mainly upon the intelligence of the people..." (Constitution of the State of Idaho, Article IX, Section 1); or "A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people..." (Constitution of North Dakota, Article VIII, Section 1), among others.

<sup>3</sup> While these examples of fiscal year 2013 taxable values reflect low and high taxable values per ANB, they are not the lowest and highest among Montana school districts.



school spending, equity increases because schools become less reliant on local revenues.

The 1935 Montana Legislature instituted flat grant state payments based on “classroom units.” Elementary classroom units received grants of \$500 per teacher and 12 cents per pupil per day, and high schools received \$600 per teacher and 15 cents per pupil per day.<sup>4</sup>

Current flat grant components of the Montana school funding formula include those payments that are funded 100% by the state: Indian Education for All (\$20.40 per ANB), Quality Educator (\$3,042 per QE), and Data-for-Achievement (\$10 per ANB).<sup>5</sup> While the basic and per-ANB entitlements seem to fit the definition of a flat grant, they are not true flat grants because these entitlements are funded through a blend of direct state aid, guaranteed tax base aid, local non-levy revenue, and local levies.

### Foundation Programs

Foundation programs were instituted to address several of the drawbacks of flat grant programs, mostly dealing with lingering inequity and general inadequacy of funding. Foundation programs are aptly named as they establish a base level (minimum) for school budgets, using a mix of state and local funding. The state’s share of the funding is determined by the difference between the amount required by the minimum budget and the amount of local revenue raised by a “required tax rate.” Foundation programs initially alleviated problems associated with flat grant programs. However, over time and as the foundation amounts (or the state’s share) failed to keep up with the funding needed to actually provide a minimum adequate education, districts once again came to rely heavily on local revenues. This led to inequities based on local district wealth.

The 1949 Montana Legislature enacted a Foundation Program that established minimum operating budgets for school districts, largely based on the number of students enrolled.<sup>6</sup> County commissioners statewide were required to levy 15 mills to meet the minimum budgets of the elementary schools in the county and 10 mills for high schools. Counties could levy fewer mills if the money raised through the levy would cover the minimum budgets. When 15 mills was not enough to meet the minimum budgets, the state contributed the balance from the “State Common School Equalization Fund.” However, the state’s share was limited to one-half of the statewide Foundation Program total. If there was not enough money to bring a district up to the minimum budget,

local taxpayers had to make up the difference. This limitation and other changes over time severely limited the Foundation Program’s power to equalize.

Montana’s current formula owes much to the basic structure of foundation programs; the establishment of BASE<sup>7</sup> (minimum) budgets for all districts and the state-local split in funding the basic and per-ANB entitlements are examples.

### Guaranteed Tax Base Programs

Guaranteed Tax Base, or GTB, programs came into prominence in the late 20th century as a means of addressing the perennial school funding dilemma of unequal distribution of local tax wealth. Under this approach, the state establishes a set dollar amount for a mill value per student; if a district’s mill value per student is less than the state value, the state subsidizes the difference. GTB programs succeed at equalizing local fund-raising capacities, but policy questions exist as to how much the state should subsidize and to which parts of the school funding formula GTB should apply. For instance, beyond the general/operating budget, should GTB apply to items such as building expenses, retirement, and transportation?

In a pure GTB model that applied to school funding in its entirety, local school districts would determine their own budgets and set their mill levies accordingly. However, this approach cedes a great deal of control of the state budget to local districts because state GTB subsidies would have to make up the difference between the amount raised by the local levy and the total budget set by the district. A pure GTB model is rarely used.

GTB as an equalization mechanism in Montana was first proposed in 1983, in Senate Bill 76, but it was not incorporated as a component of Montana’s school funding formula until 1989.<sup>8</sup> Montana’s current variation of GTB establishes a threshold ratio of, roughly speaking, “funding capacity to funding need” (taxable value to non-state-funded budget). If a district’s ratio is less than the established statewide ratio, the district is eligible for GTB aid through a mill value subsidy. Montana uses GTB in three areas: the local share (GTB) area of the district general fund BASE budget, the county retirement funds for elementary and high school, and for debt service.

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<sup>4</sup>Chapter 175, Laws of 1935.

<sup>5</sup>Chapter 400, Laws of 2013. These figures are for fiscal year 2014.

<sup>6</sup>Chapter 199, Laws of 1949.

<sup>7</sup>Base Amount for School Equity; 20-9-306(1), Montana Code Annotated.

<sup>8</sup>Chapter 11, Laws of 1989 (June Special Session).

## Combination Foundation and GTB Programs

Combination programs generally create two tiers of school funding. The first tier is typically a foundation-style program that mandates a minimum budget for a school district and funds it through a blend of state and local funding. The second tier is then an optional budget amount over that minimum budget. The over-minimum budget amount is subsidized through GTB payments. Adequacy can be met when foundation minimum budgets and state contributions are set high enough. Equity at the minimum budget is guaranteed, but is somewhat up to local districts if budgets are set above the minimum. Because GTB subsidizes the over-minimum budget, the argument can be made that all districts have the same opportunity to budget above the minimum. Some states place a cap on the over-minimum budget to ensure that funding disparities remain within an acceptable range.

Montana has some features of a combination program. The BASE, or minimum, budgets for district general funds ensure a foundation-style minimum that is subsidized through GTB for qualifying school districts. School districts then have the option of setting a budget above the BASE amount, but the state does not provide GTB for this “over-BASE” amount. Similar to combination programs elsewhere, statutorily established maximum general fund budgets attempt to limit funding disparities among Montana schools.

## Conclusion

The Montana school funding formula defies easy categorization. It combines elements from several iterations of programs instituted elsewhere in the United States over the past century in an effort to provide “more equal” access to education that had been “less equal” due to variation in local district wealth and to ensure the adequacy of the “state’s

share.” The evolution of the formula is the result of adjustments made over time, often following court cases and legislative studies, in an effort to balance fiscal priorities with constitutional requirements.

The Montana Constitution asks those involved in public education funding to juggle several constitutional requirements. The Legislature must “provide a basic system of free quality public elementary and secondary schools.”<sup>9</sup> School district trustees are given “supervision and control of schools in each district.”<sup>10</sup> And for all Montanans, “equality of educational opportunity is guaranteed to each person of the state.”<sup>11</sup>

In *School Finance*, Odden and Picus remark that “the fact is [the value of equity] conflicts with the value of local choice, so that both values cannot be satisfied by any one formula.”<sup>12</sup> The evolution of school funding continues in an ever-changing political, educational, technological, and economic dynamic. But a historical grounding in the mechanisms developed during the 20th century may help guide policymakers and stakeholders as they develop 21st century solutions.

***A Final Observation from the Author:*** *The Odden and Picus textbook that is heavily referenced in literature related to this topic is available from only two Montana libraries: the Maureen and Mike Mansfield Library at the University of Montana and the Montana Legislative Reference Center at the Capitol. What a great reminder of the resources available to legislators, staff, and the public through the Legislature’s Reference Center!*

Please see p.11 for a list of key legal challenges to Montana’s school funding laws.

<sup>9</sup>Montana Constitution, Article X, Section 1(3).

<sup>10</sup>Montana Constitution, Article X, Section 8.

<sup>11</sup>Montana Constitution, Article X, Section 1(1).

<sup>12</sup>Odden and Picus, *School Finance: A Policy Perspective* (3rd Ed.), P. 165.

## Court Cases and Subsequent Changes to Montana K-12 Finance

The table below lists key legal challenges to Montana's school funding laws in the past two decades and the findings, legislation, and changes to school funding that resulted from the cases.

Year	Court Case	Finding	Legislation	Change to Formula
1989	Helena Elementary School District No. 1 v. State	<ul style="list-style-type: none"> <li>• Unequal spending per pupil means unequal educational opportunity</li> </ul>	<ul style="list-style-type: none"> <li>• HB 28 (1989 special session)</li> </ul>	<ul style="list-style-type: none"> <li>• Increased state share</li> <li>• Created GTB payments</li> <li>• Removed coal, oil, and natural gas from property tax base</li> <li>• Created statewide 40-mill property tax levy</li> </ul>
1993	Seperate lawsuits filed by Helena Elementary School District No. 1 and the Montana Rural Education Association contending HB 28 had not fixed disparities	<ul style="list-style-type: none"> <li>• The 1993 Legislature enacted HB 667 while the lawsuits were pending, resulting in the court declaring these actions moot</li> </ul>	<ul style="list-style-type: none"> <li>• HB 667 (1993)</li> </ul>	<ul style="list-style-type: none"> <li>• Eliminated existing Foundation Program</li> <li>• Created new formula with BASE (minimum) and maximum budgets, basic and per-ANB entitlements</li> <li>• GTB for debt service</li> </ul>
2004	Columbia Falls Elementary School District No. 6 v. State (I)	<ul style="list-style-type: none"> <li>• Funding inadequate</li> <li>• Basic system of quality schools not defined</li> <li>• Must fund Article X, Section 1(2) of the Montana Constitution*</li> </ul>	<ul style="list-style-type: none"> <li>• SB 152 (2005)</li> <li>• SB 525 (2005)</li> <li>• SB 1 (2005 special session following QSIC)</li> </ul>	<ul style="list-style-type: none"> <li>• Defined basic system</li> <li>• Created Quality Schools Interim Committee (QSIC)</li> <li>• Created four new fully state-funded payments: Quality Educator, At-Risk Students, Indian Educational for All, American Indian Achievement Gap</li> </ul>
2008	Columbia Falls Elementary School District No. 6 v. State (II)	<ul style="list-style-type: none"> <li>• Legislature has made good faith effort to address concerns regarding adequacy</li> </ul>	<ul style="list-style-type: none"> <li>• Various</li> </ul>	<ul style="list-style-type: none"> <li>• Increased GTB ratio</li> <li>• Provided funding for facilities</li> </ul>

\* "The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to preservation of their cultural integrity."